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February 28, 2023

Via ECF

The Honorable Jennifer H. Rearden
United States District Court
Southern District of New York
500 Pearl Street, Room 1010
New York, NY 10007

RE: *Ridinger, et al. v. Stone, et al.*, Case No. 2022-CV-09082-VM

Dear Judge Rearden,

We represent Plaintiff Loren M. Ridinger in the above-styled case, which was reassigned to Your Honor on February 17, 2023. Prior to the reassignment, the matter was before the Honorable Victor Marrero. Judge Marrero's Individual Practices contemplate an informal letter procedure at the motion to dismiss stage, whereby prior to the filing of a motion to dismiss, the parties are to exchange letters in which they address any grounds that "defendant contends would warrant dismissal." *See* Judge Marrero's Individual Practices at § II(B). At the conclusion of that letter exchange process, if the parties are unable to resolve their dispute and defendant maintains that a motion to dismiss remains warranted, "the Court will schedule a conference, by telephone or in person, to provide any appropriate guidance or rulings." *Id.*

At the time of the reassignment to Your Honor on February 17, the Parties had already exchanged letters pursuant to this procedure and, given that a dispute remained over the appropriateness of a motion to dismiss, the Parties merely awaited the Court's scheduling of a conference "to provide any appropriate guidance or rulings." *See* D.E. 31, 34, 35. In fact, Defendants had already previously attempted to bypass the informal letter procedure altogether by filing a motion to dismiss on February 3, 2023, but the Court *sua sponte* directed Defendants to withdraw their motion and comply with the letter procedure. *See* D.E. 30.

Because Your Honor's Individual Practices do not contemplate the same procedure at the motion to dismiss stage, Defendants have now re-filed their previously withdrawn motion to dismiss and have advised the undersigned that they intend to withdraw their letter.

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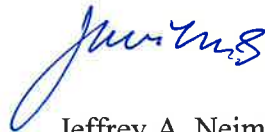
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Given that the Parties have followed Judge Marrero's informal letter procedure to this point in the case – including prior to Plaintiff's filing of the Amended Complaint (*see* D.E. 15, 18, 19) – and indeed given that the Parties have already exchanged letters in accordance with this procedure, Plaintiff requests that the Court complete the process contemplated by this procedure and (1) schedule a conference to provide appropriate guidance or rulings on the arguments set forth in the Parties' letters as to the appropriateness of a motion to dismiss, and (2) order Defendants to withdraw their motion to dismiss until the completion of that conference. Alternatively, should the Court wish to abandon the informal letter procedure the Parties had been following under Judge Marrero's Individual Practices, Plaintiff requests that their Response to Defendants' Motion to Dismiss (DE 36-39) be due 28 days from the date of the Court's order.

Respectfully submitted,



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